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Chapter No. 937  
10/SS26/R1499  
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***SENATE BILL NO. 3204***

Originated in Senate *Remedios* Secretary

SENATE BILL NO. 3204

AN ACT TO AUTHORIZE THE GOVERNING AUTHORITIES OF THE CITY OF BILOXI, MISSISSIPPI, TO TAKE NECESSARY ACTION TO CLEAN PRIVATE PROPERTY ON WHICH COMMERCIAL BUILDINGS OR MULTIFAMILY HOUSING BUILDING STRUCTURES ARE, OR WERE, LOCATED THAT WERE IMPACTED BY HURRICANE KATRINA, ARE NO LONG IN A STATE OF REPAIR SUITABLE FOR USE AND OCCUPANCY, AND ARE NEGLECTED TO THE EXTENT THE STRUCTURES OR DEBRIS AND REMNANTS FROM STRUCTURES ARE A MENACE TO PUBLIC HEALTH AND SAFETY; TO PROVIDE FOR A HEARING AND NOTICE TO PROPERTY OWNERS AND LIENHOLDERS; TO PROVIDE THAT IF THE CITY TAKES CORRECTIVE ACTION REGARDING THE PROPERTY, THE CITY MAY RECOVER ITS ACTUAL COST AND IMPOSE A PENALTY; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

**SECTION 1.** The purpose of this act is to enable the governing authorities of the City of Biloxi, Mississippi, to take necessary action to clean private property on which commercial buildings or multifamily housing building structures are, or were, located that were impacted by Hurricane Katrina, are no longer in a state of repair suitable for use and occupancy, and are neglected to the extent the structures or debris and remnants from structures are a menace to public health and safety, or are subject to entry by uninvited persons, including homeless people, juveniles and vandals, or are subject to infestation of rodents or other varmints with potential to spread disease, or the structures are dilapidated to an extent to be a danger or a blight to the community that cannot be remedied by the city under the provisions of Section 21-19-11, Mississippi Code of 1972.

**SECTION 2.** (1) As used in this section:

(a) "Blighted property" means private property on which commercial buildings or multifamily housing building structures are, or were, located that were impacted by Hurricane Katrina, are

no longer in a state of repair suitable for use and occupancy, and are neglected to the extent the structures or debris and remnants from structures are a menace to public health and safety, or are subject to entry by uninvited persons, including homeless people, juveniles and vandals, or are subject to infestation of rodents or other varmints with potential to spread disease, or the structures are dilapidated to an extent to be a danger or a blight to the community that cannot be remedied by the city under the provisions of Section 21-19-11, Mississippi Code of 1972.

(b) "Governing authorities" means the Mayor and City Council of the City of Biloxi, Mississippi.

(2) The governing authorities are authorized on their own motion, or upon receipt of a petition requesting the municipal authority to act, signed by two (2) or more owners of property located within six hundred (600) feet of the property line of any property alleged to be blighted property, or within the same block on either side of the common street as the property alleged to be blighted property, or by two (2) or more owners of properties that are a combination of the two (2) above-stated categories, to serve written notice to the property owner by service of notice as provided in Section 3 of this act, that the property upon which blighted property is, or was, located and was impacted by Hurricane Katrina, appears or is claimed to be blighted property.

(3) The property owner must answer the notice and allow the City of Biloxi Code Inspector, accompanied by a representative from the fire department and police department, to inspect the building structure and property within ten (10) days of the date of notice on a business day between the hours of 8:00 a.m. and 4:00 p.m., or, if service is by publication in a newspaper within two (2) weeks from the date of publication on a business day between the hours of 8:00 a.m. and 4:00 p.m. The property owner may accompany the city officials during the inspection.



(4) If the property owner fails or refuses to respond to the notice for inspection, or if inspection of the premises identifies to city authorities that due to impact or damage from Hurricane Katrina and neglect of making repairs and maintenance to the structure and/or property that it is in such a state of uncleanness or disrepair as to be a menace to public health and safety of the community and to require demolition or partial demolition and removal of structures, debris or structural remnants, or to require repairs, renovations or improvements to be certifiable under city codes for occupancy, or to be secure at all times from entry by uninvited persons, or to prevent fire, vandalism or infestation of rodents and other varmints with potential spread of disease, or that without removal or repair, reconstruction and occupancy that it is, or will be, a blight upon the community, then in any such condition, written notice shall be given by the city to the property owner by service as provided in Section 3 of this act requiring the property owner to appear at a regular meeting of the Biloxi City Council at a time and place stated at least two (2) weeks after the date of notice, but no longer than five (5) weeks after date of notice, to show cause why the municipality shall not take action to cleanup the property and demolish and remove or make necessary repairs, in its discretion, to the buildings and structures to abate the immediate danger, remove the blight, or make the building certifiable for occupancy under city codes. A copy of written notice to the property owner shall be sent by United States mail to any lienholder with a mortgage or deed of trust lien recorded in the public land records to the address specified in the recorded notice of lien on record as of the date of posting of the notice to landowner.

(5) If at such hearing, the governing authorities adjudicate the property or its building structures to have been impacted by or abandoned as a result of Hurricane Katrina and neglected without adequate repair, maintenance and security, and if the

governing authorities adjudicate that as a result the property and/or building structure or structures (a) are in such a state of uncleanliness or disrepair to be a menace to public health, safety and welfare of the community requiring cleanup and/or demolition and removal; or (b) require cleanup and/or demolition or partial demolition and removal of structures or repairs, renovations or building improvements to be certifiable for occupancy and use, or to avert the threat of fire or vandalism due to entry by uninvited persons, or to prevent infestation by rodents or other varmints with potential spread of disease, fleas or other irritants, or to prevent further accumulation of debris, and for any such reasons the properties are a blight on the area, then the governing authorities shall be authorized to take action, in its discretion, under the circumstances to remove and prevent a blight on the community.

(6) Upon adjudication of a blight under subsection (5) of this section, the governing authorities shall, if the owner does not do so himself, proceed to clean the land, by use of municipal employees or by contract, by cutting weeds; filling cisterns; removing rubbish; dilapidated fences; outside toilets; dilapidated, unsecured or otherwise unsafe buildings; remnants of buildings, and other structures and debris; and filling low areas where water pools; or making such minimum repairs to buildings to secure and make safe buildings pending their renovation and occupancy.

(7) After taking action under subsection (6) of this section, the governing authorities may at their next regular meeting, by resolution, adjudicate the actual cost of cleaning and restoring the property and may also impose a penalty of Two Thousand Dollars (\$2,000.00). The cost and any penalty may become a civil debt against the property owner, or, at the option of the governing authorities, an assessment against the property. The cost assessed against the property means the cost to the



municipality of using its own employees and use and rental of equipment to do the work or the cost to the municipality of any contract executed by the municipality to have the work done.

(8) The action herein authorized under subsection (6) of this section shall not be undertaken against any one (1) parcel of property or building structure more than six (6) times in any one (1) calendar year, and the expense of such action to clean or restore the property shall not exceed an aggregate amount of Seventy-five Thousand Dollars (\$75,000.00) per year or the fair market value of the property subsequent to the cleaning plus ten percent (10%), whichever is more.

(9) If it is determined by the governing authorities that it is necessary to clean or take restorative action on any property or structure more than once within a calendar year, then the municipality may take such action provided written notice to the property owner is served as required by Section 3 of this act. The governing authorities may assess the same penalty for each time the property or land is cleaned or restored as otherwise provided in this section.

(10) The penalty herein shall not be assessed against the State of Mississippi or Harrison County, nor shall a municipality act upon a parcel or structure owned by the State of Mississippi or Harrison County without first serving notice.

(11) In the event the governing authorities declare, by resolution, that the cost and any penalty shall be collected as a civil debt, the governing authorities may authorize the institution of a suit on open account against the owner of the property in a court of competent jurisdiction in the manner provided by law for the cost and any penalty, plus court costs and reasonable attorney's fees and interest from the date that the property was cleaned.

(12) In the event the governing authorities do not declare that the cost and any penalty shall be collected as a civil debt,

then the assessment above provided for shall be a lien against the property and may be enrolled in the Office of the Circuit Clerk of Harrison County as other judgments are enrolled, and the municipality under contract with the Harrison County Tax Collector shall, upon order of the governing authorities, proceed to sell the land and property to satisfy the lien as now provided by law for the sale of lands for delinquent municipal taxes.

**SECTION 3.** (1) All written notices to landowners as required under Section 2 of this act shall be served by United States mail for the period required in Section 2 of this act, or where no time is specified for two (2) weeks in advance of the action or date of hearing specified, or by service of notice as required by this section by a police officer for the period required in Section 2 of this act, or where no time specified or two (2) weeks in advance of the action or date of hearing specified, or if the property owner or his address is unknown, then by two (2) weeks' notice in a newspaper having a general circulation in the municipality.

(2) The police officer's return on the notice may be in one (1) of the following forms:

(a) Form of personal notice:

"I have this day delivered the within notice personally, by delivering to the within named property owner, \_\_\_\_\_ (here state name of party summoned), a true copy of this notice.

This, the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_ (Police Officer)"

(b) Form of notice where copy left at residence:

"I have this day delivered the within notice to \_\_\_\_\_, within named property owner, by leaving a true copy of the same at his (or her) (here insert wife, husband, son, daughter or some other person, as the case may be), \_\_\_\_\_ a member

of his (or her) family above the age of sixteen (16) years, and willing to receive such copy. The said property owner is not found in my municipality.

This, the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_ (Police Officer)"

(c) Form of return when property owner not found within municipality and is a nonresident thereof:

"I have this day attempted to deliver the within notice to \_\_\_\_\_, within named property owner, and after diligent search and inquiry, I failed to find the same property owner within my municipality, nor could I ascertain the location of any residence of the property owner within my municipality.

This, the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_ (Police Officer)"

The first mode of notice should be made, if it can be; if not, then the second mode should be made, if it can be; and the return of the second mode of service must negate the officer's ability to make the first. If neither the first nor second mode of service can be made, then the third mode should be made, and the return thereof must negate the officer's ability to make both the first and second. In the event the third mode of service is made, then service shall also be made by publication as provided in subsection (1) of this section.

The officer shall mark on all notices the day of the receipt thereof by him, and he shall return the same on or before the day of the notice deadline or hearing, as the case may be, with a written statement of his proceedings thereon.

**SECTION 4.** All decisions rendered under the provisions of this act may be appealed as final decisions in the same manner as other appeals from municipal governing bodies.

**SECTION 5.** Nothing contained under this section shall prevent any municipality from enacting criminal penalties for



failure to maintain property so as not to constitute a menace to public health, safety and welfare.

SECTION 6. This act shall take effect and be in force from and after its passage, and shall stand repealed from and after September 1, 2012.

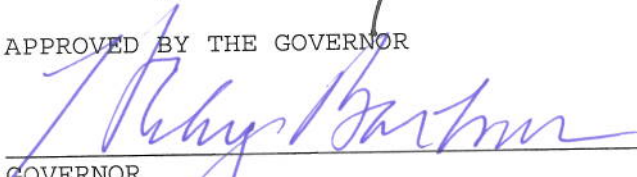
PASSED BY THE SENATE  
March 25, 2010

  
\_\_\_\_\_  
PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES  
April 23, 2010

  
\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR

  
\_\_\_\_\_  
GOVERNOR

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